IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

CIVIL MISC. APPEAL No. 1152 of 2004

GARY FRANSIS
V/S
DWARKA PRASHAD & ORS

Mr. BL MAHESHWARI, for the appellant / petitioner

Date of Order : 15.4.2005

HON'BLE SHRI N P GUPTA,J.

ORDER

Heard learned counsel for the appellant and perused the record.

It is contended that the learned Tribunal has erred in finding the appellant to be negligent to the extent of 50%.

I have considered the submission and have gone through the record, including the statement of the appellant, and the site plan, Ex.5.

From the statement of the appellant, it is clear that he has admitted the site plan, Ex.5 to be correct, and has also deposed the things available on the site. From a combined reading of the statement, and the site plan, it is clear that the appellant was going from North to South, while the jeep was going from South to North, and it is admitted position that in the East, there is a Nala, and there is a boundary wall constructed on the road. The width of the road is 20 feet, and the space towards the left of the jeep i.e. in the East is 5 feet. From this, it is clear that the motorcycle was also moving in the mid of the road. In these circumstances, it cannot be said that the finding of the learned Tribunal holding both the drivers to be equally negligent suffers from any error.

The other submission made is that the quantum of compensation awarded is in adequate.

I have gone through the statement of the claimant, so also the documents produced on record right from Ex.18 to 121, and do not find any error in the finding recorded by the learned Tribunal.

The appeal thus, has no force and is dismissed summarily.

(N P GUPTA),J.

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